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09/916,291	07/30/2001	Klaus-Martin Uhl	A 91127	7788

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EXAMINER

SAVAGE, MATTHEW O

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 08/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/916,291

Applicant(s)

UHL ET AL.

Examiner

Matthew O Savage

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 27 May 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.

- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5-7, and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Souza.

With respect to claim 1, Souza discloses a tank having a tank interior and including a first housing part 70 and a second housing part 2 connected to the first housing part and defining a tank interior co-jointly therewith, a filter wall 16 for trapping contaminants contained in the operating substance and the filter wall being configured as one piece with one of the first and second housing parts (see lines 50-56 of col. 4), the filter wall extending over the interior cross section of the tank to partition the tank housing into at least first and second spaces (e.g., one adjacent flow opening 4 and the other adjacent flow opening 6), the tank including a fill opening 4 for filling the operating substance into the first space and an outflow connection 6 through which the operating substance can be drawn from the second space, the outflow connection 6 being disposed in the second space downstream of the filter wall so that the contaminants are prevented by the filter wall from clogging the outflow connection as the operating substance is drawn by the work apparatus during operational use thereof.

As to claim 5, Souza discloses the first space as including the fill opening 4 and the second space including the outflow connection 6.

Regarding claim 6, Souza discloses the first housing part 70 as having a wall 16 extending into the interior thereof, the wall/filter wall being mounted in that plane.

Concerning claim 7, Souza discloses the first and second housing parts 70, 2 as having first and second partition surfaces, respectively, which co-jointly define a partition interface, the tank including a solid matter seal 72 at the partition interface, the first and second housing parts being connected to each other with the solid matter seal being disposed therebetween.

With respect to claim 13, Souza discloses an apparatus housing 2, a tank (e.g., defined by parts 2 and 70) capable of holding an operating substance including a tank housing 2, the tank housing having a tank interior and including a first housing part 70 and a second housing part 2 connected to the first housing part and defining a tank interior co-jointly therewith, a filter wall 16 for trapping contaminants contained in the operating substance and the filter wall being configured as one piece with one of the first and second housing parts (see lines 50-56 of col. 4), the filter wall extending over the interior cross section of the tank to partition the tank housing into at least first and second spaces (e.g., one adjacent flow opening 4 and the other adjacent flow opening 6), the tank including a fill opening 4 for filling the operating substance into the first space and an outflow connection 6 through which the operating substance can be drawn from the second space, the outflow connection 6 being disposed in the second space downstream of the filter wall so that the contaminants are prevented by the filter wall from clogging the outflow connection as the operating substance is drawn by the

work apparatus during operational use thereof, the second housing part 70 being defined by the apparatus housing.

Concerning claim 14, Souza discloses the apparatus housing as being in the form of an attachment flange (see part 64).

Regarding claim 15, Souza discloses the work apparatus as having a work tool 14, the attachment flange 64 having first and second ends, the attachment flange being connected to the substance tank 2 at the first end and to the tool at the second end (e.g., via parts 66, 68, and 70).

Claims 1-3, 5, 6, and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Kubota et al.

With respect to claim 1, Kubota et al discloses a tank having a tank interior and including a first housing part 3 and a second housing part 2 connected to the first housing part and defining a tank interior co-jointly therewith, a filter wall (e.g., a set of parallel bars 5 arranged in a plane coincident with shaft 7 and perpendicular to the axis of flow ports 1) for trapping contaminants contained in the operating substance and the filter wall being configured as one piece with one of the first and second housing parts, the filter wall extending over the interior cross section of the tank to partition the tank housing into at least first and second spaces (e.g., one adjacent each flow opening associated with conduits 1), the tank including a fill opening (e.g., associated with one of the conduits 1) for filling the operating substance into the first space and an outflow connection (e.g., associated with the other conduit 1) through which the operating

substance can be drawn from the second space, the outflow connection being disposed in the second space downstream of the filter wall so that the contaminants are prevented by the filter wall from clogging the outflow connection as the operating substance is drawn by the work apparatus during operational use thereof.

As to claim 2, Kubota et al disclose the filter wall A as including a plurality of individual lamellae 5 and each two mutually adjacent ones of the lamellae conjointly defining a gap, the plurality of lamellae extending from a wall of the first housing part 3.

Concerning claim 3, Kubota et al disclose the first and second housing parts 2, 3 conjointly defining a partition plane with the lamellae ending in the partition plane.

As to claim 5, Kubota et al disclose the first space as including the fill opening 1 and the second space including the outflow connection 1.

Regarding claim 6, Kubota et al disclose the first housing part 3 as having a wall 16 extending into the interior thereof, the wall/filter wall being mounted in that plane.

With respect to claim 13, Kubota et al discloses an apparatus housing 2, a tank (e.g., defined by parts 2 and 3) capable of holding an operating substance including a tank housing 2, the tank housing having a tank interior and including a first housing part 3 and a second housing part 2 connected to the first housing part and defining a tank interior co-jointly therewith, a filter wall (e.g., a set of parallel bars 5 arranged in a plane coincident with shaft 7 and perpendicular to the axis of flow ports 1) for trapping contaminants contained in the operating substance and the filter wall being configured as one piece with one of the first and second housing parts 3, the filter wall extending over the interior cross section of the tank to partition the tank housing into at least first

and second spaces (e.g., one adjacent each flow opening associated with conduits 1), the tank including a fill opening (e.g., associated with one of the conduits 1) for filling the operating substance into the first space and an outflow connection (e.g., associated with another one of the conduits 1) through which the operating substance can be drawn from the second space, the outflow connection being disposed in the second space downstream of the filter wall so that the contaminants are prevented by the filter wall from clogging the outflow connection as the operating substance is drawn by the work apparatus during operational use thereof, the second housing part 2 being defined by the apparatus housing.

Concerning claim 14, Kobota et al disclose the apparatus housing as being in the form of an attachment flange (see FIG. 2).

Regarding claim 15, Kobota et al disclose the work apparatus as having a work tool 7, the attachment flange having first and second ends, the attachment flange being connected to the substance tank 2 at the first end and to the tool at the second end (e.g., via part 3).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kubota et al.

Kubota fails to specify the lamellae as being S-shaped or Z-shaped in cross section, however, the selection of such a shape is considered nothing more than one of numerous configurations one of ordinary skill in the art would find obvious in order to provide filtration gaps in the apparatus disclosed by Kubota et al (see In re Dailey, 149 USPQ 47 (CCPA 1976).

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kubota et al in view of Souza.

Concerning claim 7, Kubota et al disclose the first and second housing parts 2, 3 as having first and second partition surfaces, respectively, which co-jointly define a partition interface. Kubota fails to specify the limitation of the tank including a solid matter seal at the partition interface with the first and second housing parts being connected to each other with the solid matter seal being disposed therebetween. Souza discloses a tank including a solid matter seal 72 at a partition interface with first and second housing parts 2, 70 being connected to each other with the solid matter seal being disposed therebetween and suggests that such an arrangement prevents fluid from leaking from the partition interface. It would have been obvious to have modified the apparatus of Kubota et al so as to have included a seal as suggested by Souza in order to prevent fluid from leaking from the partition interface.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Souza in view of Baracchi et al.

Souza fails to specify the first and second housing parts as being formed of plastic as recited in claim 8 or fiber reinforced plastic as recited in claim 9. Baracchi et al disclose that it is known to form filter housings from fiber reinforced plastic and suggests that such an arrangement provides the required mechanical and thermal resistance for a specific application (see lines 35-39 of col. 2). It would have been obvious to have modified the apparatus of Souza so as to have included housing parts formed of fiber reinforced plastic as suggested by Baracchi et al in order to provide the mechanical and thermal resistance required for a specific application.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kubota et al in view of Baracchi et al.

Kubota et al fail to specify the first and second housing parts as being formed of plastic as recited in claim 8 or fiber reinforced plastic as recited in claim 9. Baracchi et al disclose that it is known to form filter housings from fiber reinforced plastic and suggests that such an arrangement provides the required mechanical and thermal resistance for a specific application (see lines 35-39 of col. 2). It would have been obvious to have modified the apparatus of Kubota et al so as to have included housing parts formed of fiber reinforced plastic as suggested by Baracchi et al in order to provide the mechanical and thermal resistance required for a specific application.

The following amendments to claims 1 and 13 were discussed with Mr. Walter Ottesen during a telephone interview conducted on August 4, 2003. The examiner indicated that the amendments would patently distinguish the claim over the art of record and would place the application in condition for allowance. No agreement was reached.

1. An operating substance tank [including an operating substance tank] for a portable work apparatus, the operating substance tank comprising:

a tank housing having a tank interior and including a first housing part;
and, a second housing part connected to said first housing part and defining said tank interior conjointly therewith;

a filter wall for trapping contaminants contained in said operating substance and said filter wall being configured as one piece with [one of] said first [and second] housing part[s];

said filter wall extending over the interior cross section of said tank so as to partition said tank housing into at least first and second spaces;

said [tank] first housing part including a fill opening formed therein for filling said operating substance into said first space and;

said tank including an outflow connection through which said operating substance is drawn from said second space; and,

said outflow connection being disposed in said second space downstream of said filter wall so that said contaminants are prevented by said filter wall from

clogging said outflow connection as said operating substance is drawn by said work apparatus during operational use thereof.

13. A work apparatus comprising:

an apparatus housing;

a tank for holding an operating substance and said tank including a tank housing;

said tank housing having a tank interior and including a first housing part; and, a second housing part connected to said first housing part and defining said tank interior conjointly therewith;

a filter wall for trapping contaminants contained in said operating substance and said filter wall being configured as one piece with [one of] said first [and second] housing part[s];

said filter wall extending over the interior cross section of said tank so as to partition said tank housing into at least first and second spaces;

said [tank] first housing part including a fill opening formed therein for filling said operating substance into said first space [and];

said tank including an outflow connection through which said operating substance is drawn from said second space; and,

said outflow connection being disposed in said second space downstream of said filter wall so that said contaminants are prevented by said filter wall from clogging said outflow connection; and,

said second housing part being defined by said apparatus housing.

The following is an examiner's statement of reasons for allowance: Souza and Kubota et al are considered the closest prior art, however, the references fail to teach or suggest the instantly claimed relation of the filter wall being configured as one piece with the first housing part and the first housing part including a fill opening formed therein as recited in instant claims 1 and 13.

Applicant's amendments and arguments, filed 5-27-03, with respect to the rejections under 35 U.S.C. 112, second paragraph have been fully considered and are persuasive. The rejections under 35 U.S.C. 112, second paragraph of 4, 6, and 13-15 have been withdrawn.

Applicant's arguments filed 5-27-03 against the rejections under 35 U.S.C. 102(b) in view of Souza or Kobota et al have been fully considered but they are not persuasive.

Applicant argues that Souza or Kobota et al fail to specify a "tank" however, each reference discloses receptacles that could be broadly considered as tanks since they are capable of containing a liquid.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew O Savage whose telephone number is 703-308-3854. The examiner can normally be reached on Monday-Friday, 7:00am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda W. Walker can be reached on 703-308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

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M. Savage
Matthew O Savage
Primary Examiner
Art Unit 1723

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August 5, 2003